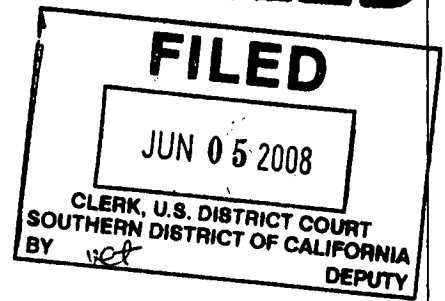


**SEALED**



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 United States Golf Association, Inc.

**UNITED STATES DISTRICT COURT  
 SOUTHERN DISTRICT OF CALIFORNIA**

**'08 CV 0981 JM JMA**

UNITED STATES GOLF ASSOCIATION, )  
 INC. )  
 Plaintiff, )  
 vs. )  
 VARIOUS JOHN and JANE DOES )  
 Individuals )  
 and )  
 VARIOUS XYZ ENTITIES, )  
 Defendants. )

CASE NO. \_\_\_\_\_  
 PLAINTIFF'S MOTION TO FILE  
 UNDER SEAL

Plaintiff, the United States Golf Association, Inc. ("USGA" OR "Plaintiff"), by and through  
 its attorneys, Thorp Reed & Armstrong, LLP and Butz, Dunn & DeSantis, APC, hereby files its  
 Motion to File Under Seal:

///

1  
 PLAINTIFF'S MOTION TO FILE UNDER SEAL

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**ORIGINAL**

1           1. By this Motion, USGA requests that this Court order the Clerk of Court for the  
2 United States District Court for the Southern District of California to seal the filings in the above-  
3 captioned matter until further Order of the Court on the issue.

4           2. Plaintiff is seeking certain relief under the Trademark Counterfeiting Act amending  
5 the Lanham Act. 15 U.S.C. § 1116. The Trademark Act expressly authorizes, inter alia, the owner  
6 of a trademark or servicemark to obtain *ex parte* seizure orders in order to prevent sales of  
7 merchandise bearing counterfeits of registered marks.

8           3. Section 1116(d)(8) of that Act provides, "An order under this subsection, together  
9 with the supporting documents, *shall be* sealed until the person against whom the order is directed  
10 has an opportunity to contest such order, except that any person against whom such order is issued  
11 shall have access to such order and supporting documents after the seizure has been carried out."  
12 15 U.S.C. § 1116(d)(8) (emphasis added). Filing under seal, in the circumstances delineated in the  
13 statute, is required.

14           4. If this court file were not sealed, Plaintiff's interests, as well as the public's interests,  
15 would be detrimentally affected. If this file were to be made public before service of the requested  
16 temporary restraining and seizure orders (assuming such orders were issued), the targeted  
17 defendants would be able to transfer or conceal the unauthorized merchandise at the heart of this  
18 lawsuit. See National Football League Properties Inc. v. Doe, 28 U.S.P.Q.2d 1866, 1867 (Cal.  
19 Super. Ct. 1993) (stating that giving defendants notice of the requested Temporary Restraining  
20 Order would "cause said counterfeit [Super Bowl] merchandise to be diverted, removed from the  
21 confines of Los Angeles County, or sold to innocent third parties, . . . or otherwise disposed of in a  
22 manner that would otherwise render ineffective the Temporary Restraining Order"); Matter of  
23 Vuitton et fils S.A., 606 F.2d 1, 4-5 (2d Cir. 1979) (in context of reversal of district court's refusal  
24 to issue ex parte TRO and noting that dumping of the counterfeit goods or transfers to unknown  
25 third parties is a common practice in the counterfeiting industry).

26           5. In sum, if details of this litigation were untimely disclosed to the public, the  
27 counterfeit goods, and any business records related to them, could be secreted from discovery or  
28 destroyed. Further, the "bootleggers" and their customers would be put on notice to more closely

1 protect their identities, making it that much harder to identify or locate them in the future.

2 6. Sealing of the entire court file (until further Order of the Court on the issue) would  
3 increase the likelihood that crucial evidence will be preserved. Such sealing also would increase  
4 the likelihood that additional, unauthorized merchandise will be intercepted before it can enter the  
5 stream of commerce, ultimately preserving this Court's ability to provide an adequate final remedy.

6 7. The USGA hereby incorporates by reference the concurrently filed Verified  
7 Complaint; Ex Parte Motion for Temporary Restraining Order, Order for Seizure of Infringing  
8 Goods, and for Preliminary Injunction; and the Brief in Support of that Motion.

9 WHEREFORE, the USGA respectfully requests that the Court issue an Order in the form  
10 attached hereto (or substantially in such form) directing the Clerk of Court to seal the filings in the  
11 above-captioned matter until further Order of Court on the issue.

12 Dated: 6/2/08

Respectfully submitted,

13 BUTZ DUNN & DeSANTIS, APC

*Jannah*

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